

EXHIBIT 1

EMMETT ENRIQUES - CONFIDENTIAL
JANUARY 28, 2025 A

ATTORNEYS' EYES ONLY

JOB NO. 1392594

Case No. 2:24-cv-0896
9-GW-BFM

EMMETT ENRIQUES, individually and
on behalf of all other situated,

Plaintiffs,

9 vs.

10 ONLY WHAT YOU NEED, INC., a
11 Delaware Corporation; THE SIMPLE
12 GOOD FOODS COMPANY, a Delaware
Corporation; AND DOES 1 THROUGH 70,
INCLUSIVE,

Defendants.

CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF

EMMETT ENRIQUES

LOS ANGELES, CALIFORNIA

TUESDAY, JANUARY 28, 2025

22 REPORTED BY:
RONNY ZAVOSKY
23 CSR NO. 12359
JOB NO. 1392594

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1 The deposition of EMMETT ENRIQUES was taken on
2 behalf of the Defendants at 515 South Flower Street,
3 18th Floor, Los Angeles, California, commencing at
4 9:49 A.M. on Tuesday, January 28th, 2025, before
5 Ronny Zavosky, CSR No. 12359.

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8

9 A P P E A R A N C E S

10

11 FOR THE PLAINTIFF:

12

13 REESE, LLP

14 BY: GEORGE V. GRANADE II, ESQ.

15 8484 Wilshire Boulevard, Suite 515

16 Beverly Hills, California 90211

17 (310) 393-0070

18 ggranade@reesellp.com

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1 A P P E A R A N C E S (Continued) :

2

3 FOR THE DEFENDANTS:

4

5 BRAUNHAGEY & BORDEN LLP

6 BY: David H. KWASNIEWSKI, ESQ.

7 747 Front Street, 4th Floor

8 San Francisco, California 94111

9 (415) 599-0210

10 kwasniewski@braunhagey.com

11

12

13

14 ALSO PRESENT:

15

16 STEVE PETERSEN, VIDEOGRAPHER

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10:40:37 1 March of 2024?

10:40:39 2 MR. GRANADE: Objection.

10:40:41 3 THE WITNESS: Don't -- don't recall. Yes.

10:40:43 4 Don't recall.

10:41:10 5 BY MR. KWASNIEWSKI:

10:41:10 6 Q You said you reviewed the complaint before

10:41:13 7 today's deposition.

10:41:14 8 Did you also review it before it was filed?

10:41:19 9 A No. Not that I recall. No.

10:41:27 10 Q So the first time you saw it was when?

10:41:32 11 A First time I read it? Maybe a month or two

10:41:37 12 ago.

10:41:50 13 Q Did you agree with what was stated in the

10:41:53 14 complaint when you read it?

10:41:54 15 A Yes.

10:42:55 16 Q The test results that are referenced in the

10:42:57 17 complaint, do you remember when they were performed?

10:43:02 18 A I have a general idea that they were performed

10:43:06 19 throughout a larger time frame -- time range of -- I

10:43:11 20 would say, to the best of my knowledge, last year -- the

10:43:15 21 year prior. And the year prior. Let me just add that.

10:43:34 22 Q Do you know if any test results were performed

10:43:37 23 on products purchased between -- OWYN shakes purchased

10:43:40 24 between February and March of 2024?

10:43:42 25 MR. GRANADE: Object to the form of the

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10:43:43 1 question.

10:43:44 2 THE WITNESS: Don't recall.

10:43:46 3 BY MR. KWASNIEWSKI:

10:43:47 4 Q Do you know if any of the products tested were

10:43:49 5 purchased at Target or Whole Foods in West Hollywood,

10:43:54 6 California?

10:43:57 7 A Don't recall.

10:44:27 8 Q But you would agree with the allegation in

10:44:30 9 paragraph 20 of the complaint that testing and analysis

10:44:34 10 revealed that the products, one, contained more net

10:44:37 11 carbohydrates than advertised contradicting the zero net

10:44:42 12 carbs claim; two, included hidden sugars or ingredients

10:44:46 13 that metabolizes sugar rendering the zero sugar claim

10:44:50 14 false; and, three, was not suitable for a ketogenic diet

10:44:54 15 due to its actual carbohydrate content making the keto

10:44:58 16 friendly label misleading.

10:44:59 17 You agree with that allegation; right?

10:45:05 18 A Yes.

10:45:05 19 Q You would also agree with the allegation that

10:45:08 20 OWYN products contained hidden dietary fiber that

10:45:12 21 rendered the carbohydrate claim false; right?

10:45:14 22 A Yes.

10:45:20 23 Q In the complaint at paragraph 23, it says that

10:45:39 24 "Between May 23rd, 2024, and July 3rd, 2024, Simply

10:45:45 25 Good Foods Company completed its acquisition of Only

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10:45:48 1 What You Need Inc."

10:45:51 2 Do you have any reason to doubt the truth of

10:45:53 3 that allegation?

10:45:54 4 A No.

10:46:03 5 Q So Simply Good Foods, according to your own

10:46:07 6 complaint, didn't acquire OWYN until at least May of

10:46:11 7 2024; right?

10:46:15 8 A I have not much knowledge in the terms of

10:46:16 9 acquisition of the parent companies.

10:46:20 10 Q You would agree with me, though, that if

10:46:22 11 Simply Good Foods Company didn't own or control OWYN

10:46:27 12 during the period of time in which you purchased the

10:46:29 13 shakes, then you would have not been injured by Simply

10:46:32 14 Good Foods Company; right?

10:46:34 15 MR. GRANADE: Objection.

10:46:38 16 THE WITNESS: I mean, the type of -- the

10:46:40 17 hypothetical question, would I be injured from drinking

10:46:43 18 the protein shake? Yes, I would. Depending on not --

10:46:47 19 whether or not who owns what company, I can't -- I can't

10:46:50 20 give you a straightforward answer to that.

10:46:52 21 BY MR. KWASNIEWSKI:

10:46:53 22 Q Well, Simply Good Foods Company didn't have

10:46:55 23 anything to do with the advertising or formulation of

10:46:58 24 OWYN protein shake in February and March of 2024 because

10:47:02 25 it didn't acquire OWYN until several months later. Then

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10:47:06 1 what specifically could Simply Foods -- Simply Good
10:47:12 2 Foods Company have done to cause you any harm?
10:47:16 3 MR. GRANADE: Objection.
10:47:17 4 THE WITNESS: Did they keep selling the
10:47:18 5 product that they knew was mislabeled. That would be my
10:47:22 6 first question to ask.
10:47:24 7 BY MR. KWASNIEWSKI:
10:47:27 8 Q Well, you stopped buying the product in March
10:47:28 9 of 2024; right?
10:47:30 10 A Correct.
10:47:32 11 Q So if Simply Good Foods kept selling the
10:47:36 12 product after you stopped purchasing it, that didn't
10:47:39 13 cause you any injury; right?
10:47:41 14 MR. GRANADE: Objection.
10:47:45 15 THE WITNESS: Personal injury?
10:47:47 16 Hypothetically, no.
10:47:49 17 BY MR. KWASNIEWSKI:
10:48:37 18 Q Prior to filing this lawsuit, did you make any
10:48:40 19 attempt to reach out to OWYN and ask for a refund or
10:48:43 20 raise these issues?
10:48:44 21 A Personally, no.
10:49:04 22 Q You have a brand called "Chappie"; right?
10:49:06 23 A No. Chaddy.
10:49:07 24 Q Chaddy. I'm sorry.
10:49:09 25 Have your customers ever made any complaints

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10:50:27 1 arose would be.

10:50:46 2 Q Do you think, in general, that there are too

10:50:47 3 many lawsuits?

10:50:49 4 A I don't have an opinion.

10:51:12 5 MR. KWASNIEWSKI: I'll show you what we'll

10:51:13 6 mark for identification as Exhibit 2.

10:51:51 7 (Exhibit 2 was marked for identification.)

10:51:53 8 BY MR. KWASNIEWSKI:

10:51:53 9 Q This is a Chaddy lip plumper that your company

10:51:59 10 sells; right?

10:52:00 11 A Uh-huh.

10:52:10 12 Q And if you turn to the next page it says, in

10:52:13 13 the instructions, "Apply throughout the day or as needed

10:52:17 14 for plump-hydrated lips"; right?

10:52:19 15 A Uh-huh.

10:52:24 16 Q The active ingredient here is capsaicin

10:52:28 17 extract; right?

10:52:29 18 A Correct.

10:52:30 19 Q And that makes your lips bigger because it

10:52:33 20 irritates them; right?

10:52:37 21 A That's an oversized -- sorry -- an over --

10:52:40 22 oversimplification of it, but in terms of the active

10:52:48 23 ingredient, that is technically how it works. Yes.

10:52:53 24 Q All right. So it's not true, like it says

10:53:15 25 here, that "It plumps your lips." It just makes them

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10:53:18 1 red and inflamed; right?

10:53:20 2 A I mean, like I said earlier, that's

10:53:23 3 hypothetical on what your definition of "plump" is.

10:53:27 4 It's not the only ingredient that plumps your lips.

10:53:30 5 "Plumps" is a very broad definition. We have other

10:53:32 6 ingredients in there like hyaluronic acid that keep your

10:53:36 7 lips moist and give your lips over time the -- I don't

10:53:41 8 want to say vitamins -- the nutrients that it needs to

10:53:45 9 stay big over time. So there's not just the active

10:53:47 10 ingredient.

10:53:47 11 And like I said earlier, it depends on your

10:53:50 12 definition of "plump." We go by the same definition as

10:53:53 13 every other plumper out there that do the same thing.

10:53:58 14 MR. KWASNIEWSKI: I'm going to show you what

10:53:59 15 we'll mark for identification as Exhibit 3.

10:54:22 16 (Exhibit 3 was marked for identification.)

10:54:22 17 BY MR. KWASNIEWSKI:

10:54:25 18 Q This is a printout from your -- from the

10:54:27 19 Chaddy website. It is the product page for the Chaddy

10:54:32 20 tanning water duo pack.

10:54:34 21 Do you see that?

10:54:35 22 A Uh-huh.

10:54:42 23 Q It says here on the first page, the first

10:54:44 24 sentence "Made for all skin tones. Our gentler

10:54:48 25 beginner-friendly formula uses plant-based sugarcane

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10:54:53 1 beet and your skin's natural amino acids to create a
10:54:56 2 warm healthy-looking tan within 12 hours."
10:54:59 3 Did I read that correctly?
10:55:01 4 A Yes.
10:55:01 5 Q And there's an asterisk after that.
10:55:07 6 What does that asterisk link to?
10:55:09 7 A I'm assuming we put the asterisk in there
10:55:12 8 because it can be plus or minus 12 hours.
10:55:19 9 Q Does it say that anywhere on this page?
10:55:21 10 A In front of me? No.
10:55:39 11 Q Anywhere in the exhibit?
10:55:49 12 A What exactly are you asking?
10:55:50 13 Q Does it say anywhere in the document -- in the
10:55:53 14 exhibit that it's plus or minus 12 hours for the tan to
10:55:56 15 occur?
10:56:04 16 A In this exhibit? No, it doesn't say that.
10:56:09 17 Q Do you know if it says that anywhere on your
10:56:11 18 website?
10:56:12 19 A Well, we're saying allow the tan to develop
10:56:15 20 for up to 12 hours. So we're just saying let them
10:56:18 21 develop it for up to 12 hours.
10:56:20 22 Q But you said plus or minus, so it could take
10:56:22 23 longer than 12 hours.
10:56:23 24 A It could. Everybody is different.
10:56:25 25 Q You don't explain that in this -- on this --

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11:22:23 1 Did you review any of the letters that your
11:22:25 2 lawyers sent prior to filing the complaint to OWYN?
11:22:30 3 A I do remember reading them, yes.
11:22:32 4 Q When did you read them?
11:22:35 5 A Around the same time that I read the
11:22:38 6 complaint.
11:22:42 7 Q And just so the record is clear, around what
11:22:44 8 time frame was that?
11:22:45 9 A I would say one or two months ago; however,
11:22:49 10 that's just reading them myself. I had prior knowledge
11:22:52 11 of them since I've been in contact with my lawyers from
11:22:56 12 the past year. So I did have an understanding of what
11:22:58 13 it was.
11:23:49 14 Q So the complaint, as you may recall, discusses
11:23:52 15 four flavors of shakes. The chocolate, vanilla --
11:24:00 16 A No Nut Peanut Butter.
11:24:01 17 Q Right.
11:24:01 18 A Sea Salt, Caramel.
11:24:03 19 Q Great. The complaint says in paragraph 5 that
11:24:09 20 you purchased the shakes at retail locations in
11:24:13 21 California, including Los Angeles County, but you never
11:24:16 22 purchased the No Nut Butter Cup; right?
11:24:19 23 A No.
11:24:19 24 Q And you never purchased the Sea Salt Caramel;
11:24:22 25 right?

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11:24:23 1 A No.

11:24:24 2 Q So, in fact, that allegation in the complaint

11:24:25 3 that you purchased all those different flavors, that's

11:24:27 4 not true, is it?

11:24:28 5 MR. GRANADE: Objection.

11:24:30 6 THE WITNESS: I just purchased two of the

11:24:32 7 flavors.

11:24:32 8 BY MR. KWASNIEWSKI:

11:25:11 9 Q Earlier we talked about the types of relief

11:25:13 10 that you were seeking in this lawsuit. We discussed

11:25:15 11 monetary relief. You also mentioned injunctive relief.

11:25:21 12 What specific injunctive relief are you

11:25:25 13 seeking with this lawsuit?

11:25:26 14 MR. GRANADE: Objection.

11:25:28 15 You may answer.

11:25:30 16 THE WITNESS: Let me first clarify that I am

11:25:32 17 in no way an expert in law, in business, and labeling

11:25:38 18 products. However, when I say injunctive relief, my --

11:25:45 19 the main meaning behind that, it means to be -- the

11:25:49 20 labels re- -- how do I put this? I'd like to see the

11:25:55 21 labels not mislabeled and to be changed to reflect what

11:25:58 22 is actually in the product.

11:25:59 23 BY MR. KWASNIEWSKI:

11:26:12 24 Q So just so that I understand, you are not

11:26:19 25 asking for the formula of the product to be changed?

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11:34:51 1 Q What if some batches of OWYN's shakes were --
11:34:56 2 had all the protein advertised and just some batches
11:34:59 3 didn't? You would agree with me if that were the case,
11:35:03 4 then people who bought the batches that had all the
11:35:06 5 protein wouldn't have suffered an injury; right?

11:35:09 6 MR. GRANADE: Objection.

11:35:12 7 THE WITNESS: I would say -- so you are saying
11:35:16 8 if they had drinking -- if they had "drunken" the
11:35:19 9 product that was properly labeled -- that was batched
11:35:26 10 properly and labeled properly, that they wouldn't have
11:35:28 11 suffered injury, I would say yes.

11:35:30 12 BY MR. KWASNIEWSKI:

11:35:41 13 Q Do you know which specific batches of OWYN's
11:35:43 14 shakes were not properly labeled?

11:35:47 15 A Personally? No.

11:36:15 16 Q Switching gears a little bit. I wanted to
11:36:17 17 talk to you about how you came to retain your lawyers in
11:36:22 18 this case.

11:36:22 19 How did you come to meet them?

11:36:25 20 A I first met Alec when he was in law school
11:36:31 21 years ago. And I only met George recently. Within this
11:36:39 22 last month or two.

11:36:46 23 Q How did you come to hire Alec in connection
11:36:48 24 with this case?

11:36:49 25 A Alec actually worked for -- I wouldn't say

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11:36:53 1 worked for me. He was an independent contractor for me
11:36:56 2 in the past, so I had a good understanding of what he
11:36:59 3 did. And he -- when he left working with me, I --
11:37:04 4 that's when I had a good understanding of what he did,
11:37:06 5 so that's how I kind of came into it and understood
11:37:10 6 that.

11:37:22 7 Q You said earlier that you personally didn't
11:37:24 8 test any of OWYN's shakes.

11:37:26 9 A Do you know who did?

11:37:33 10 A I would make the assumption -- no. As in who
11:37:39 11 sent it in? No.

11:37:50 12 Q Prior to you hiring Alec to represent you in
11:37:54 13 this case, did Alec approach you with the test results?

11:37:58 14 A No.

11:37:59 15 Q How did you hear about the test results?

11:38:02 16 A I heard about the test results through Alec
11:38:05 17 because I was at his place and saw that he had the
11:38:11 18 protein shakes at his place, and me knowing, through
11:38:14 19 prior work through Alec, what he does for a career,
11:38:18 20 living, had asked him about it because I was drinking
11:38:22 21 the protein shakes around the same time.

11:38:26 22 Q And at that time, was Alec representing you as
11:38:29 23 an attorney?

11:38:29 24 A No.

11:38:33 25 Q So what specifically did you ask Alec about

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11:38:35 1 the protein shakes?

11:38:37 2 A I asked him -- I asked him whether or not

11:38:39 3 the -- I asked -- first, I asked his thoughts and I

11:38:43 4 can't recall the exact conversation. But I asked what

11:38:46 5 his relationship was with the protein shakes and what

11:38:48 6 was going on, and that's when I saw the nutrition.

11:38:55 7 Q When you say "nutrition," you are talking

11:38:56 8 about the test results?

11:38:57 9 A Yes.

11:39:02 10 Q After you saw the test results, what did you

11:39:04 11 discuss?

11:39:07 12 MR. GRANADE: And I just want to caution my

11:39:09 13 client, at some point my understanding is the

11:39:10 14 attorney-client privilege does attach here because, you

11:39:14 15 know, they started talking about Emmett wanting to

11:39:18 16 retain Alec. So I take it that you are not asking about

11:39:22 17 those conversations once that had occurred.

11:39:24 18 BY MR. KWASNIEWSKI:

11:39:24 19 Q Yeah. I'm only asking about your

11:39:27 20 conversations prior to retaining Alec as your lawyer.

11:39:34 21 So you saw the test results.

11:39:35 22 Did you have any other conversations with Alec

11:39:37 23 before you decided to hire him as your lawyer?

11:39:40 24 A I would -- I would say no. I -- I mean, I

11:39:43 25 took interest for personal reasons. I've taken a lot

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11:39:47 1 law classes before. You know. It's interesting to me.

11:39:51 2 Labeling, you know, like it's more of a

11:39:54 3 personal thing. So after this -- that conversation that

11:39:58 4 was it.

11:40:01 5 Q And you said you've taken on classes before?

11:40:05 6 A I've taken law classes before.

11:40:07 7 Q You've taken law classes.

11:40:09 8 Have you ever served as a plaintiff in another

11:40:11 9 lawsuit?

11:40:13 10 A No.

11:40:13 11 THE VIDEOGRAPHER: It's still attached.

11:40:16 12 THE WITNESS: Oh, okay.

11:40:18 13 BY MR. KWASNIEWSKI:

11:40:18 14 Q Have you ever been a party to a -- a prior --

11:40:20 15 a lawsuit before?

11:40:21 16 A No.

11:40:37 17 Q We've touched on this briefly, but you

11:40:40 18 understand that in this case you are representing a

11:40:42 19 class of consumers across the state and the entire

11:40:46 20 country; right?

11:40:47 21 A Correct.

11:40:48 22 Q And you understand that as a class

11:40:49 23 representative, you have duties to the other members of

11:40:52 24 the class that aren't present here today; right?

11:40:55 25 A Correct.

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11:43:38 1 other class members to not receive any money if you and
11:43:41 2 your lawyers receive money; right?

11:43:43 3 A I -- I think that the other class members
11:43:45 4 should receive money. Yes.

11:44:40 5 MR. KWASNIEWSKI: I'm going to show you what
11:44:41 6 we'll mark for identification is Exhibit 4.

11:44:48 7 (Exhibit 4 was marked for identification.)

11:45:29 8 BY MR. KWASNIEWSKI:

11:45:30 9 Q Does Exhibit 4 look like the label on the
11:45:32 10 chocolate protein shake that you purchased?

11:45:35 11 A No.

11:45:36 12 Q What's different?

11:45:38 13 A Serving side -- size; food ounces; type of
11:45:42 14 packaging; shape of packaging. That's as far as I can
11:45:50 15 go.

11:46:15 16 Q So you did not purchase the Elite Pro
11:46:17 17 Chocolate in the 355-milliliter configuration?

11:46:20 18 A I believe -- no. I did not.

11:46:23 19 Q Which OWYN chocolate shake did you purchase?

11:46:28 20 A The -- it's either 335 or 330. Off the top of
11:46:33 21 my head, I can't remember, but it's not -- it's not this
11:46:36 22 bottle shape.

11:47:03 23 Q And same question for the vanilla shake.

11:47:05 24 Did you buy the 355-milliliter or 335?

11:47:09 25 A Same as the chocolate.

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1 I, RONNY ZAVOSKY, CSR No. 12359, certify that
2 the foregoing proceedings were taken before me at the
3 time and place therein set forth, at which time the
4 witness was duly sworn and that the transcript is the
5 true record of the testimony so given;

6

7 Witness review, correction and signature

8 (X) shall be per venue code () was requested
9 () was not requested () was waived
10 () not handled by the deposition officer due to
11 party stipulation

12

13 The dismantling, unsealing, or unbinding of
14 the original transcript will render the reporter's
15 certificate null and void.

16 I further certify that I am not financially
17 interested in the action, and I am not a relative or
18 employee of any attorney of the parties, nor of any of
19 the parties.

20 Dated this 7th day of February, 2025.

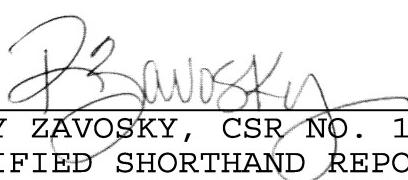
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RONNY ZAVOSKY, CSR NO. 12359
CERTIFIED SHORTHAND REPORTER